

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 10th day of February, two thousand eleven.

Richard Roe,

Respondent-Appellant,

v.

No. 10-2905

United States of America,

Appellee,

John Doe,

Defendant-Appellee.

Richard Roe,*

Petitioner,

v.

No. 11-479

United States of America,

Respondent,

John Doe 1, John Doe 2,

Defendants.

* The Clerk of Court is directed to amend the official caption in Docket No. 11-479 to conform to the listing of the parties above. All references to petitioner in Docket No. 11-479 should be entered as "Richard Roe," who is respondent-appellant in Docket No. 10-2905. References to defendants should be entered as "John Doe 1," John Doe 2," etc., with "John Doe 1" corresponding to John Doe, the defendant-appellee, in Docket No. 10-2905.

IT IS HEREBY ORDERED:

(1) The captioned appeals or proceedings are hereby CONSOLIDATED until further order of the Court;

(2) No party or attorney shall be permitted to bring his or her own court reporter into the sealed court room at the time of argument on Monday, February 14, 2011, at 1:30 p.m., inasmuch as the proceedings will be recorded in the normal course electronically and by the Court's own official court reporter.

(3) The parties were already informed, pursuant to our order of February 4, 2011, that the argument will be conducted in a sealed courtroom. We now further ORDER that during argument the court room shall be closed to all except the following persons: (i) counsel of record; (ii) respondent-appellant Richard Roe; (iii) any support person accompanying counsel of record on the day of argument, who is identified by counsel in advance and appropriately identified upon entry into the courtroom; and (iv) previously approved members of the Court's staff. When identifying persons who are to accompany counsel of record, counsel also must identify each person's employer and reason for their attendance, and confirm that each person understands they are subject to this Court's orders and contempt powers.

(4) All parties are TEMPORARILY ENJOINED from disseminating or distributing in any manner and in any court, proceeding or forum, any documents filed in this appeal, or in Court of Appeals Docket No. 11-479, or in the related proceedings in the Eastern and Southern Districts of New York, or the contents thereof, to any member of the public or the media except to those persons directly involved in the parties' legal representation, who shall be bound by this order of confidentiality and sealing. The parties were already informed, pursuant to the Court's order of January 28, 2011, and its order of February 8, 2011 in Docket No. 11-479, that these dockets are temporarily under seal. To the extent respondent-appellant Richard Roe and his counsel "believe [they have] always been and always [will] be free to distribute [the Court's] order[s] and the filings in this appeal . . . to Congress and the public . . . and the media," *see Respondent-Appellant's Motion to Vacate Order Sua Sponte Closing Courtroom*, February 7, 2011, they are mistaken and have been on notice of the facts.

(5) Respondent-appellant Richard Roe shall submit in writing, by 5 pm on Friday, February 11, a list of any public or media persons—in addition to any persons directly involved in Roe's legal representation—to whom he or his counsel have already revealed or distributed in any manner the filings in these proceedings, or the contents thereof. This list shall identify with specificity the documents or contents that were revealed or distributed to each person. If no such persons exist, respondent-appellant Richard Roe shall submit a sworn statement to the court

explicitly attesting to same.

(6) Pursuant to our order of February 10, 2011, all counsel of record (including counsel who have moved to be substituted) are directed to appear at oral argument on Monday, February 14, 2011, at 1:30 p.m.

(7) Respondent-appellant Richard Roe (but not defendant-appellant John Doe) is directed to appear in person at oral argument on Monday, February 14, 2011, at 1:30 p.m.

The Clerk of Court is directed to convey a copy of this order to all counsel of record (including to counsel who have moved to be substituted), and directly to respondent-appellant Richard Roe, by email and other means.

FOR THE COURT:
Catherine O'Hagan Wolfe,
Clerk

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". Overlaid on the signature is the official seal of the United States Second Circuit Court of Appeals. The seal is circular with a red outer ring containing the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom, separated by two stars. The center of the seal is blue and contains the words "SECOND CIRCUIT" in white capital letters.